

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

KIOWA TRIBE and COMANCHE NATION, §
Plaintiffs, §
v. § Case No. 5:22-CV-00425-G
THE UNITED STATES DEPARTMENT OF THE INTERIOR, *et al.*, §
Defendants. §

FORT SILL APACHE TRIBE DEFENDANTS'
REQUEST FOR JUDICIAL NOTICE

COMES NOW, The Fort Sill Apache Tribe (“FSAT”) Defendants¹, and respectfully request this Court take judicial notice of the following:

- Exhibit 1 – “Kiowa Indian Tribe of Oklahoma Land Opinion” authored by Penny J. Coleman, Acting General Counsel for the National Indian Gaming Commission (“NIGC”) regarding the application for a Gaming Site License on behalf of the Kiowa Indian Tribe of Oklahoma dated November 15, 2005;
- Exhibit 2 – “Holdenville Site Land Opinion” authored by Penny J. Coleman, Acting General Counsel of the NIGC to the Muscogee (Creek) Nation regarding their request for an Indian lands opinion dated April 23, 2008;

¹ The “FSAT Defendants” include Lori Gooday Ware, Chairwoman, Pamela Eagleshield, Vice-Chairman, James Dempsey, Secretary-Treasurer, Jeanette Mann, Committee Member, Jennifer Heminokeky, Committee Member, Dolly Loretta Buckner, Committee Member, Philip Koszarek, Chairman FSAT Gaming Commission, Naomi Hartford, Vice-Chairman, FSAT Gaming Commission, Micheal Crump, Commissioner FSAT Gaming Commission, Lauren Pinola, Commissioner, FSAT Gaming Commission, and Debbie Baker, Commissioner, FSAT Gaming Commissioner.

- Exhibit 3 – “Whitecloud Land Opinion” authored by Penny J. Coleman, Acting General Counsel of the NIGC to the Iowa Tribe of Oklahoma regarding their proposed management contract pursuant to the Indian Gaming Regulatory Act (“IGRA”) dated January 7, 2010;

This Court has authority to take judicial notice of any facts that “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201. Documents that are administered by, or publicly filed with an administrative agency are properly subject to judicial notice under Fed. R. Evid. 201. *Winzler v. Toyota Motor Sales U.S.A., Inc.*, 681 F.3d 1208, 1213 (10th Cir. 2012).

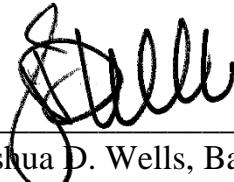
Similarly, judicial notice may also be taken of official acts of the legislative, executive, or judicial branch of the United States government, including court records. *High Desert Relief, Inc. v. United States*, 917 F.3d 1170, 1175 (10th Cir. 2019) (citing *Pueblo of Sandia v. United States*, 50 F.3d 856, 861 (10th Cir. 1995) n. 6 (10th Cir. 1995)).

The documents attached hereto as Exhibit 1-3 are public opinions issued by the NIGC directly addressing IGRA’s prohibition on gaming on Indian lands accepted by the Secretary of the Interior into trust for the benefit of an Indian tribe after October 17, 1988, unless the land falls within certain statutory exceptions. *See 25 U.S.C.A. § 2719* (West).

THEREFORE, the FSAT Defendants respectfully request this Court grant their Request for Judicial Notice.

Dated: June 1, 2022.

Respectfully submitted,



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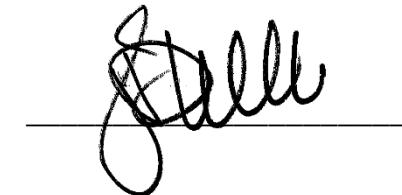
- and -

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CERTIFICATE OF SERVICE

I, Joshua D. Wells, certify that on June 1, 2022, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records on file, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the ECF System.

A handwritten signature in black ink, appearing to read "Joshua D. Wells", is written over a horizontal line.